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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/624,925

07/21/2003

Russell E. Evans

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06/25/2007

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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1732

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/624,925	Applicant(s) EVANS ET AL.	
	Examiner Mathieu D. Vargot	Art Unit 1732	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

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|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-17, 20-22, 27 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard in view of Soane –514 (see col. 3, lines 36-54) and Nagata et al essentially for reasons of record noting the following.

Applicant has amended the claims to recite that the liquid-phase polymeric material is formulated to set within about 30 seconds and that the cavity is filled within 30 seconds. However, this is submitted to not define over the art applied. It is well known in the art that polyurethanes set up fairly quickly and it is submitted that the use of such a polyurethane would have been obvious to one of ordinary skill in the art so that the lens would be removed from the mold quickly for final curing. There is nothing on record that indicates that Nagata does not in fact show such a polyurethane. Employing a quick setting up resin, it would have been obvious to one of ordinary skill in the art to hasten the filling time of Richard to accommodate such a resin. The treating the polarizer for integral bonding is taught in Richard, as is the hard coating. In the lens art, a gasket is typically used to ensure that molding material does not flow outside the mold cavity. From that standpoint, it is submitted that the filling structure shown in Richard constitutes a gasket as it certainly fulfills this function, as well as a function of filling the mold cavity.

2. Claims 18 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard in view of Soane –514 and Nagata et al and further in view of Shen et al (see col. 1, lines 50-57).

Richard, Soane –514 and Nagata et al are applied for reasons of record, the references disclosing the basic claimed method lacking essentially that the polarizer is PET. Shen et al teaches that PET polarizers, as well as PVOH polarizers as taught in Richard, are known in the art. It certainly would have been obvious to one of ordinary skill in the art at the time of invention to have modified the process of Richard by using a PET polarizer in lieu of a PVOH dependent on exact optical properties desired for the lens.

3. Claims 19, 24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard in view of Soane –514 and Nagata et al and further in view of Orlosky (see 54, 56 in Fig. 3; col. 7, lines 6-13).

Richard, Soane –514 and Nagata et al are applied for reasons of record, the references disclosing the basic claimed method lacking essentially the aspect of the gasket having the vent holes. Orlosky shows a gasket similar in structure and design to the filling structure of Richard and teaches that one of the filling holes would be used as a vent. It would have been obvious to one of ordinary skill in the art to modify the gasket/filling structure of Richard as taught by Orlosky to facilitate the filling of the mold cavity.

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

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F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 13-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,391,231 in view of Soane -514 and Nagata et al. US Patent -231 sets forth similar subject matter to the instant claims lacking essentially the aspects of having an adjacent reservoir for supplying additional material and using a polyurethane. As noted supra, Soane -514 and Nagata et al teach these aspects. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the method of US Patent -231 as taught by Soane -514 and Nagata et al dependent on the exact materials used and optical properties desired for the final lens.

5. Applicant's arguments filed April 9, 2007 have been fully considered but they are not persuasive. The art rejection has been reformatted somewhat, with Shen et al and Orlosky now being relied upon to teach aspects submitted to have been well known and the double patenting rejection has been corrected. Applicant's comments have been noted but are not persuasive. Applicant submits that Richard does not show a gasket and provides a definition for the term. However, the filling structure of Richard

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clearly fulfils the function of preventing "the escape of a gas or fluid" and therefore is submitted to be inclusive of a gasket. In the lens art, a gasket does not have to be between the mold parts, but rather functions as a collar enclosing the parts to define the mold cavity. It is true that Richard uses thermoplastic materials and Soane -514 uses thermosets. However, one of ordinary skill in the art knows that both materials tend to shrink as they harden. Richard compresses the lens to get around this and Soane -514 fills additional material into the mold. One of ordinary skill would realize that either method would be equally applicable dependent on the exact characteristics of the material molded. While Nagata et al may teach a polymerization time of .5 to 72 hours, the set up time for the polyurethane would be much less than the complete cure time. Hence, the instant recitation of "about 30 seconds" is not believed to distinguish patentably over Nagata et al.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
June 19, 2007

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732

6/19/07